

AMENDED IN ASSEMBLY JUNE 2, 2003  
AMENDED IN ASSEMBLY APRIL 10, 2003  
AMENDED IN ASSEMBLY MARCH 13, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 232**

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**Introduced by Assembly Member Chan**  
**(Coauthors: Assembly Members Chu, Hancock, Koretz, Lieber,**  
**Ridley-Thomas, and Vargas)**  
(Coauthors: Senators Ducheny, Kuehl, and Soto)

January 30, 2003

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An act to add Article 3 (commencing with Section 127400) to Chapter 2 of Part 2 of Division 107 of the Health and Safety Code, relating to hospitals.

LEGISLATIVE COUNSEL'S DIGEST

AB 232, as amended, Chan. Statewide health planning and development: hospitals: self-pay policies.

Existing law provides for the Office of Statewide Health Planning and Development, which is charged with enforcement of various provisions of law relating to health facilities, including hospitals, as defined.

This bill would require each general acute care hospital, acute psychiatric hospital, and special hospital to develop a self-pay policy specifying how the hospital shall determine the prices to be paid by self-pay patients, as defined. The bill would require the self-pay policy to include a section addressing charity care patients. It would require each hospital to perform various functions in connection with the

hospital self-pay policy, including notifying patients of the policy, and attempting to determine the availability of private or public health insurance coverage for each patient. The bill would also specify billing and collection procedures to be followed by hospitals.

This bill would require the office to develop a uniform self-pay application to be used by all hospitals. The bill would require each hospital to provide information to the office, including a copy of the hospital's self-pay policy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Article 3 (commencing with Section 127400) is added to Chapter 2 of Part 2 of Division 107 of the Health and Safety Code, to read:

Article 3. Self-Pay Policies

127400. As used in this article, the following terms have the following meanings:

(a) "Hospital" means any facility that is required to be licensed under subdivision (a), (b), or (f) of Section 1250, *except a facility operated by the State Department of Mental Health or the Department of Corrections.*

(b) "Office" means the Office of Statewide Health Planning and Development.

(c) "Self-pay patient" means a patient who does not have third party coverage from a health insurer, health care service plan, Medicare, or ~~Medicaid~~ *medicaid*, and whose injury is not a compensable injury for purposes of workers' compensation, automobile insurance, or other insurance as determined and documented by the hospital. Self-pay patients may include charity care patients.

(d) "Financially qualified self-pay patient" means a patient who is a self-pay patient, as defined in subdivision (c) and who has one of the following:

(1) A family unit of one or two persons with a family income that does not exceed 500 percent of the federal poverty level.

1 (2) A family unit of three or more persons with a family income  
2 that does not exceed 400 percent of the federal poverty level.

3 (3) A family unit with family income that does not exceed 700  
4 percent of the federal poverty level if the patient is eligible to apply  
5 for major risk medical coverage pursuant to Section 12725 of the  
6 Insurance Code.

7 (e) “Federal poverty level” means the poverty guidelines  
8 updated periodically in the Federal Register by the United States  
9 Department of Health and Human Services under authority of  
10 subsection (2) of Section 9902 of Title 42 of the United States Code.

11 (f) “Underinsured” patient means a person whose deductibles,  
12 copayments, medical, or hospital bills after payment by  
13 third-party payers exceed the patient’s ability to pay, determined  
14 in accordance with a hospital’s charity care policy.

15 (g) “Self-pay allowance” means, with respect to services  
16 rendered to a financially qualified self-pay patient, an allowance  
17 that is applied after the hospital’s charges are imposed on the  
18 patient, due to the patient’s determined financial inability to pay  
19 the charges.

20 127405. (a) Each hospital shall develop a self-pay policy  
21 specifying how the hospital shall determine the ~~prices to be paid~~  
22 ~~by self-pay patients. For a family unit of one or two persons with~~  
23 ~~family income less than or equal to 500 percent of the federal~~  
24 ~~poverty level, or for a family unit of three or more persons with~~  
25 ~~family income less than or equal to 400 percent of the federal~~  
26 ~~poverty level, these prices shall not exceed the prices paid to the~~  
27 ~~hospital for the same services by Medi-Cal or Medicare, or by a~~  
28 ~~workers’ compensation insurer pursuant to an official medical fee~~  
29 ~~schedule.~~

30 ~~(b) In the case of a person who is eligible to apply for major risk~~  
31 ~~medical coverage pursuant to Section 12725 of the Insurance~~  
32 ~~Code, these prices shall apply to a family unit with family income~~  
33 ~~less than or equal to 700 percent of the federal poverty level.~~

34 ~~(c) For purposes of this section, “federal poverty level” means~~  
35 ~~the poverty guidelines updated periodically in the Federal Register~~  
36 ~~by the United States Department of Health and Human Services~~  
37 ~~under the authority of subsection (2) of Section 9902 of Title 42~~  
38 ~~of the United States Code. financial liability for services rendered~~  
39 ~~to qualified self-pay patients, including all of the following:~~

40 (1) Persons described in subdivision (c) of Section 127400.

1 (2) *Persons described in subdivision (d) of Section 127400.*

2 (b) *For financially qualified self-pay patients, each hospital*  
3 *shall specify in its policy how the hospital will determine and pay*  
4 *self-pay allowances for services provided to financially qualified*  
5 *self-pay patients. A self-pay allowance, at a minimum, shall be*  
6 *equal to the difference between the charge for the services set forth*  
7 *in the hospital's established charge schedule and the greater of the*  
8 *following:*

9 (1) *The fee-for-service payment rate for the service applicable*  
10 *to the Medi-Cal program, if available.*

11 (2) *The fee-for-service payment rate for the service applicable*  
12 *to the Medicare program, if available.*

13 (c) *The fee-for-service payment rate for the service applicable*  
14 *to a workers' compensation insurer pursuant to an official medical*  
15 *schedule of payments, if available.*

16 (d) *No self-pay allowance for financially qualified self-pay*  
17 *patients shall be required with respect to any service for which*  
18 *there is no coverage under the Medi-Cal program or the Medicare*  
19 *Program or workers' compensation insurance. Self-pay*  
20 *allowances may be applied by the hospital to self-pay patients who*  
21 *do not meet the standards for financially qualified self-pay*  
22 *patients.*

23 127407. Each hospital shall include in its self-pay policy a  
24 section addressing charity care patients. The charity care section  
25 of the self-pay policy shall specify the financial criteria and the  
26 procedure used by the hospital to determine whether a self-pay or  
27 underinsured patient is eligible for charity care. The policy shall  
28 include all of the following:

29 (a) Financial eligibility criteria.

30 (b) Financial information required of the patient.

31 (c) A review process for charity care decisions.

32 127410. (a) Each hospital shall provide patients with oral and  
33 written notice of the hospital's self-pay policy at the time of  
34 admission and discharge. *The notice shall also be provided to*  
35 *patients who receive emergency or outpatient care and who may*  
36 *be billed for that care but who were not admitted.* This notice shall  
37 be in the language spoken by the patient. This shall be determined  
38 in a manner similar to that required pursuant to Section 12693.30  
39 of the Insurance Code. All written correspondence to the patient  
40 required by this article shall also be language appropriate.

(b) Notice of the hospital's self-pay policy shall be clearly and conspicuously posted in locations that are visible to the public, including, but not limited to, all of the following:

(1) Emergency department, if any.

(2) Billing office.

(3) Admissions office.

(4) ~~Any other location~~ *Other locations that may be determined* by the office, to ensure that patients are informed of the policy.

127415. The office, in consultation with interested parties, shall develop a uniform self-pay application to be used by all hospitals. In developing the application, the office shall consider whether the application used for the Medi-Cal program and the Healthy Families Program can be used as or incorporated in the uniform self-pay application.

127420. (a) Each hospital shall make all reasonable efforts to obtain from the patient or his or her representative information about whether private or public health insurance or sponsorship may fully or partially cover the charges for care rendered by the hospital to a patient, including, but not limited to, any of the following:

(1) Private health insurance.

(2) Medicare.

(3) The Medi-Cal program, the Healthy Families Program, the California Childrens' Services Program, or other state-funded programs designed to provide health coverage.

(b) As part of any billing to the patient, each hospital shall provide the patient with a clear and conspicuous notice that includes all of the following:

(1) A statement of charges for services rendered by the hospital.

(2) A request that the patient inform the hospital if the patient has health insurance coverage, Medicare, Healthy Families, Medi-Cal, or other coverage.

(3) A statement that if the consumer does not have health insurance coverage, that they may be eligible for Medicare, Healthy Families, Medi-Cal, California Childrens' Services Program, or charity care.

(4) A statement indicating how patients may obtain applications for the Medi-Cal program and the Healthy Families Program and that the hospital will provide these applications on

1 request. If at the time care is provided, the patient does not show  
2 proof of coverage by a third-party payer specified in subdivision  
3 (a), then the hospital shall send an application for the Medi-Cal  
4 program and the Healthy Families Program to the patient. This  
5 application may accompany the billing or may be sent separately.

6 (5) Information regarding self-pay and charity care  
7 application, including the following:

8 (A) The hospital contact for resources for additional  
9 information regarding charity care.

10 (B) A statement indicating how patients may obtain a self-pay  
11 application from the hospital, *including an application for a*  
12 *financially qualified self-pay patient. The statement shall provide*  
13 *information about the family income requirements for financially*  
14 *qualified self-pay patients as provided in this article.*

15 127425. In order to facilitate payment by public or private  
16 third-party payers, the hospital shall allow at least 180 days ~~before~~  
17 ~~commencing collection activities. During this 180-day period, the~~  
18 ~~hospital may do any of the following: after discharge before~~  
19 ~~engaging in debt collection activities, including the use of a debt~~  
20 ~~collector or selling or assigning a patient's debt to a debt collector~~  
21 ~~or reporting adverse information to a consumer reporting agency,~~  
22 ~~except that the hospital may do any of the following during this~~  
23 ~~180-day period:~~

24 (a) Send a bill to the patient in accordance with existing law.

25 (b) Attempt to negotiate a payment plan in accordance with this  
26 article.

27 (c) Attempt to collect payment from any responsible  
28 third-party payer, either public or private.

29 (d) Provide any information that may assist the patient in  
30 obtaining coverage through the Medi-Cal program or Healthy  
31 Families Program, or any other public program for which the  
32 patient may be eligible.

33 (e) Attempt to make a final determination as to whether the  
34 patient may be considered a self-pay patient under the hospital's  
35 self-pay policy or is eligible for charity care under the hospital's  
36 charity care policy.

37 127426. (a) *The period described in Section 127425 shall be*  
38 *extended if the patient has a pending appeal for coverage of the*  
39 *services.*

1     **(b)** For purposes of this section, “pending appeal” includes  
2 any of the following:

3     **(1)** A grievance against a health care service plan, as described  
4 in Section 1345, or against an insurer, as described in Section  
5 791.27 of the Insurance Code.

6     **(2)** An independent medical review, as described in Section  
7 10145.3 or 10169 of the Insurance Code.

8     **(3)** A fair hearing for a review of a Medi-Cal claim pursuant to  
9 Section 10950 of the Welfare and Institutions Code.

10    **(4)** An appeal regarding Medicare coverage consistent with  
11 federal law and regulations.

12    127430. **(a)** Prior to commencing collection activities  
13 against a patient, the hospital, any assignee of the hospital, or other  
14 owner of the patient debt, including a collection agency, shall  
15 provide the patient with a clear and conspicuous written notice  
16 containing both of the following:

17     **(1)** A plain language summary of the patient’s rights pursuant  
18 to the Rosenthal Fair Debt Collection Practices Act, Title 1.6 C  
19 (commencing with Section 1788) of Part 4 of Division 3 of the  
20 Civil Code, and the federal Fair Debt Collection Practices Act,  
21 Subchapter V (commencing with Section 1692) of Chapter 41 of  
22 Title 15 of the United States Code. The summary shall include a  
23 statement that the Federal Trade Commission enforces the federal  
24 act.

25     **(2)** Information about nonprofit credit counseling services in  
26 the area.

27    **(b)** The notice required by subdivision (a) shall also  
28 accompany any document indicating that the commencement of  
29 collection activities may occur.

30    **(c)** A hospital shall use reasonable efforts to negotiate a  
31 payment plan with the patient prior to undertaking any of the  
32 following actions:

33     **(1)** Selling or assigning a patient’s account to any party,  
34 including a debt collection agency.

35     **(2)** Reporting nonpayment or any other negative information to  
36 a consumer credit reporting agency, as defined by Section 1785.3  
37 of the Civil Code.

38     **(3)** Commencing any civil action against the patient for  
39 nonpayment.

(d) For purposes of this section, “reasonable efforts to negotiate a payment plan” means two efforts to contact the patient by telephone and two efforts to contact the patient by mail.

127435. Each hospital shall provide to the office a copy of its self-pay policy, eligibility procedures, review process, and procedure for determining self-pay pricing, in a format determined by the office. The information shall be provided at least biennially, or when a significant change is made. If no significant change has been made by the hospital since the information was previously provided, notification of the lack of change shall meet the requirements of this section. The office shall make this information available to the public.

127440. *Nothing in this article shall be construed to prohibit a hospital from uniformly imposing charges from its established charge schedule or published rates, nor shall this article preclude the recognition of a hospital’s established charge schedule or published rates for the Medi-Cal program and the Medicare program reimbursement charges.*

127441. *Notwithstanding any other provision of law, the amounts paid by patients for services resulting from the self-pay allowances or charity care arrangements that are applied under a hospital’s self-pay and charity care policies shall not constitute a hospital’s uniform, published, prevailing, or customary charges, its usual fees to the general public, or its charges to non-Medi-Cal purchasers under comparable circumstances, for purposes of any payment limit under federal medicaid law, Medi-Cal law, or any other federal or state-financed health care program.*